

PATENT COOPERATION TREATY

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From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

14 JAN 2005

PCT

To:

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Dansom Lane
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GRANDE BRETAGNE

WRITTEN OPINION
(PCT Rule 66)

B' 30-04

Date of mailing
(day/month/year)

08.04.2004

Applicant's or agent's file reference

REPLY DUE

within 3 month(s)
from the above date of mailing

International application No.

PCT/GB 03/02916

International filing date (day/month/year)

08.07.2003

Priority date (day/month/year)

17.07.2002

International Patent Classification (IPC) or both national classification and IPC

A61M15/08, A61M15/08

Applicant

RECKITT BENCKISER (UK) LIMITED ET AL.

TO:

TO:

CASE NUMBER

11026P1 W0

1. This written opinion is the **first** drawn up by this International Preliminary Examining Authority.

2. This opinion contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

3. The applicant is hereby **invited to reply** to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also: For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.

4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is:

Name and mailing address of the international preliminary examining authority:



European Patent Office
D-80298 Munich
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Authorized Officer

Formalities officer (incl. extension of time limits)
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I. Basis of the opinion

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*):

Description, Pages

1-6 as originally filed

Claims, Numbers

1-5 as originally filed

Drawings, Sheets

1/1 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

5. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

6. Additional observations, if necessary:

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims	1,5
Inventive step (IS)	Claims	2-4
Industrial applicability (IA)	Claims	

2. Citations and explanations**see separate sheet**

Reference is made to the following documents:

D1: FR-A-1146256
D2: BE-A-472694
D3: WO-A-0211800
D4: DE-A-19703526

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. D1 discloses a portable device for dispensing a fragrance (see page 1, left col. lines 1-5) comprising:
 - a housing (1,2, fig.1) containing a fragrance element (see page 2, lines 28-35);
 - at least one aperture (6a, 6b fig.1) in a side of the housing in the vicinity of one end of the housing to release the fragrance from the housing (see fig.1, and page 2 left col. last paragraph);
 - and means (3, fig.1) to selectively open and close the aperture.
 - the one end being shaped to abut the lower end of the users nose such that in use the fragrance can be inhaled through the aperture to the nasal passage of the user (item 5, fig.1 and page 2 3rd paragraph). Moreover the cylindrical part 5 is considered as a kind of recess which fits the septum of the user.
- 1.1 Therefore, the subject-matter of claim 1 and 5 is not novel in view of D1. (Article 33(3) PCT).
2. The subject-matter of claim 2-4 is not considered to be inventive for the following reasons :

In D1 the inhaler is said to have "briquet" form, it is well known from the skilled person that "zippo briquets" have a hinged cover which makes a click when opening/closing it. Therefore it would be obvious for the skilled person wanting to improve the device of D1 (the fact of having a separate cover is cumbersome, and on top of that the cover may be lost), to provide the device with a hinged cover as known from the "Zippo briquets" thus arriving at the subject-matter of claim 2 and 4. (Anyway, hinged covers in inhalers are well known see for example D3 fig.21-22) . With such a hinged cover, the effects of protecting the upper lip of users inevitably obtained (claim 3).

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SEPARATE SHEET**

International application No. PCT/GB 03/02916

3. The subject-matter of claim 1 and 5 is also not novel in view of D2 (see figs.3 and 4).